

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7680

Joint Petition of Vermont Electric Cooperative, )  
Inc. and Telephone Operating Company of )  
Vermont LLC, d/b/a FairPoint Communications, )  
pursuant to 30 V.S.A. § 111a, for authority to )  
condemn easement rights in property interests of )  
Kenneth J. Daly, Jr., also known as Kenneth )  
Daly, located in Glover, Vermont, for the )  
purpose of operating, maintaining and repairing )  
existing utility lines )

Order entered: 3/11/2011

**ORDER RE: DISMISSAL**

**I. HEARING OFFICER'S REPORT**

On January 28, 2010, Vermont Electric Cooperative, Inc. ("VEC") and Telephone Operating Company of Vermont LLC, d/b/a FairPoint Communications ("FairPoint"), filed a joint petition (the "Petition") with the Vermont Public Service Board ("Board") to request condemnation of certain property rights of Kenneth J. Daly, Jr., also known as Kenneth Daly (the "Landowner"), on a parcel of land located in Glover, Vermont, for the purposes of operating, maintaining and repairing an existing 7.2 kV distribution line, along with telephone lines, on the subject property. FairPoint owns telephone lines and equipment on the poles for the distribution line and the poles are owned jointly by VEC and FairPoint. On February 10, 2011, VEC notified the Board that all issues between VEC, FairPoint, and the Landowner had been resolved through mediation and that a motion for dismissal would be filed. Consequently, a site visit scheduled for February 14, 2011, was canceled.

On March 4, 2011, VEC and FairPoint filed a document titled "Voluntary Dismissal," signed by all of the parties, in which VEC and FairPoint voluntarily dismiss the matter at issue in this Docket with prejudice.

Rule 41(a)(1) of the Vermont Rules of Civil Procedure, which applies to Board proceedings pursuant to Board Rule 2.105, provides that a plaintiff may voluntarily dismiss an action by filing a stipulation of dismissal signed by all parties. I conclude that, pursuant to VRCP 41(a)(1), the petition for condemnation has been dismissed with prejudice, and this docket may be closed.

This decision is not adverse to the interest of any party, so it need not be circulated to the parties pursuant to 3 V.S.A. § 811. This report is made to the Public Service Board pursuant to 30 V.S.A. § 8.

Dated at Montpelier, Vermont, this 9<sup>th</sup> day of March, 2011.

s/ Jay E. Dudley  
Jay E. Dudley  
Hearing Officer

**II. ORDER**

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Service Board of the State of Vermont that:

1. The Report of the Hearing Officer is accepted.
2. This docket shall be closed.

Dated at Montpelier, Vermont, this 11<sup>th</sup> day of March, 2011.

<u>s/ James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/ David Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/ John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: March 11, 2011

ATTEST: s/ Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*